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Tommy Witherspoon
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Since Judge Alan Albright took office in September 2018, more than 250 patent cases have been filed in the federal Western District of Texas, which includes Waco. That total eclipses the number for the previous four years combined.

Staff photo — Jerry Larson, file

U.S. District Judge Alan Albright and attorneys who predicted last year that Waco's federal court would become a hotbed of patent and intellectual property litigation missed their prediction just a bit.

With Albright traveling the country drumming up business and patent attorneys spreading the word that Waco's new federal judge, a longtime patent litigator, will provide the expertise to create an efficient and welcoming environment in Waco, the response in the past year actually exceeded those predictions.

Since Albright took office in September 2018, more than 250 patent cases have been filed in the federal Western District of Texas, which includes Waco. That total eclipses the number for the previous four years combined.



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among the busiest in the country for patent cases. Also, civil lawsuit filings of all manner in Waco's federal court have doubled from an average of about 350 to about 725 last year.

"I don't know how we could have had a more productive year," Albright said. "It was really pretty amazing. I give 99 percent of the credit to the fact that I have had a lot of lawyers who have contributed a ton of time to help me come up with rules to ensure people who file here and who sue here feel like they are going to get a completely fair trial and fair litigation. There are a lot of people who are making this a good venue for patent cases."

With Albright on the bench, at least three intellectual property law firms have announced plans to open offices in Waco, and local firms are beefing up their intellectual property practices.

And Albright said the number of attorneys from outside the Waco division and the Western District of Texas seeking permission to practice in his court has increased by at least 200%.



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With the flurry of activity surrounding the court, it begs the question why Albright, with a fresh lifetime appointment and a healthy civil and criminal docket, is going out of his way to solicit more cases, which equates to more work for him.

“I didn’t come to this job to retire,” Albright said. “I came to this job and I took this job in Waco because I thought it was the perfect place to try and establish a serious venue for sophisticated patent litigation, and it has proven to be just that.

“There is nothing I enjoy more than working on patent cases. I think, by and large, the lawyers are exceptional and the issues before me are always intellectually challenging. I couldn’t imagine a better docket than what I’ve got. I feel unbelievably lucky.”

Albright, David Henry, who has taught patent law and litigation at the Baylor University Law School for 26 years, and other attorneys predicted the Waco court’s intellectual property business was on the verge of a major expansion, especially in the wake of a U.S. Supreme Court ruling that narrowed the scope of venues lawyers can choose for filing cases.

With all the high-tech industry in Austin, which also is in the Western District, the environment was ripe for intellectual property litigation to take off in this area, attorneys say.



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Before, the East Texas town of Marshall was considered the mecca for patent litigation after innovative Judge T. John Ward, a Baylor Law graduate, created a friendly environment for such cases in the federal Eastern District of Texas.

But the Western District has closed the gap considerably, and attorneys say Albright, who excelled in patent litigation for more than two decades, and the venue-limiting high court ruling, are the reasons.

“There was literally no way I could have predicted that the growth would happen with the speed that it happened,” Albright said. “I would have been very pleased and felt very successful if we had been half as successful in terms of the numbers. I am unbelievably lucky, but we have worked hard.”

Henry announced in January that he will become a partner at Gray Reed, a 140-lawyer firm moving a new office into the eighth floor of the Texas Life Building, within sight of the downtown federal courthouse.



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He, too, said the rapid growth in intellectual property cases in Waco “far exceeded” his most optimistic predictions from last year. He credits Albright’s dedication, expertise and innovation for the increased intellectual property business, which he said will have a profound ripple effect on Waco and its economy.

“Judge Albright is a person who is very, very principle-driven,” he said. “He takes the position and the social responsibility very, very seriously. It’s something he thinks about all the time. I’ve heard him say on numerous occasions, ‘I want to get this right.’

“And one aspect of getting it right for him is giving patent litigants another option for taking or defending their patent cases in a forum with someone who truly is an expert in that field.”

Albright has streamlined the process by establishing innovative local rules that could knock down the average time to bring a patent case to trial from 2½ years to 18 months, Henry said. Or at least that is the goal.



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“I would hazard to guess that most federal district courts do not have a great deal of patent litigation experience, or prior knowledge, and that can manifest itself in a number of ways that can really adversely affect both sides of the docket,” Henry said. “Does the court, law clerks and staff have knowledge and expertise to handle patent cases? Do they have special local rules and standing orders where everybody knows what the game is, so to speak? Judge Albright has put in place very specific and sometimes very innovative rules and procedures for dealing with patent cases that really make it a very efficient and very pleasant place to bring a case, or defend a case, either side.”

Albright hired Josh Yi, who has a Ph.D. in electrical engineering and a decade of legal experience, as his law clerk.

“When people file here, I think they can feel comfortable with my 20 years in patent experience and his 10 years as a lawyer and his technical background that they will get a fair process with someone who knows what he is doing,” Albright said.

Albright said he is set to try his first patent case in April in Midland. The first patent trial in Waco is set in July, he said.

Albright credits U.S. Magistrate Jeffrey C. Manske for taking on more duties from Albright’s docket, including hearing felony pleas of guilt and presiding over many discovery issues.



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“Without Jeff Manske, I would be drowning,” Albright said. “He is literally keeping me afloat.”

One way Albright has streamlined the process in patent cases is to invite lawyers to call him when they are having difficulties agreeing on discovery issues, setting depositions or other matters. In many courts, attorneys file motions to compel the other side to act and drag the process down by scheduling numerous hearings, Henry said.

“Judge Albright says, ‘Call me and I will sort this out,’” Henry said.

Waco law firm Haley & Olson announced in March it was combining forces with Mann, Tindel and Thompson, an East Texas firm that specializes in patent litigation, to capitalize on the new focus of the Waco federal court.



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“I think it has been pretty active,” longtime Haley & Olson attorney Herb Bristow said. “Judge Albright has proven to be easy to work with and efficient, and he has a really good staff and really good clerks. It is a really impressive trial docket. That is what you like to see.

“He has really done a good job of making it an efficient courthouse. He is just very good at what he does and is very efficient in getting the little things worked out.”

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Tommy Witherspoon

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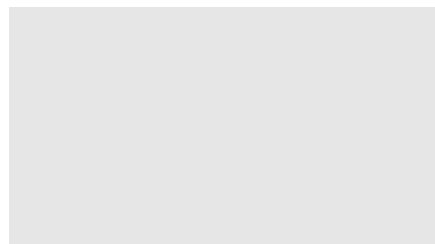


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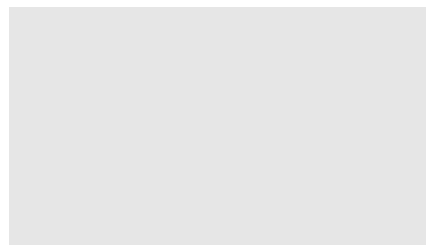


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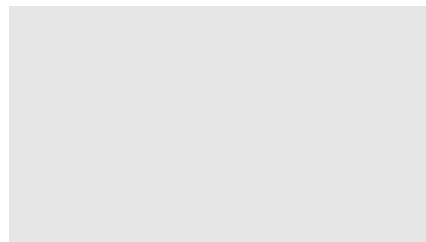
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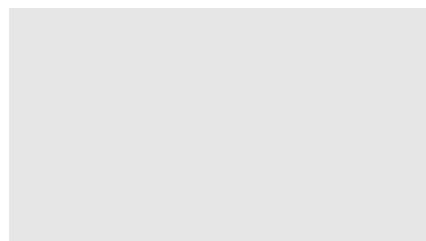
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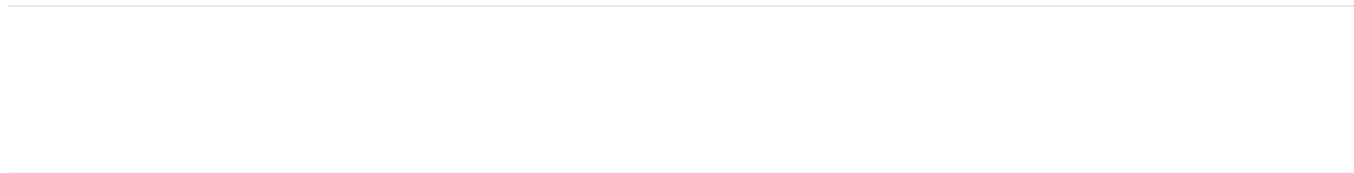
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